



July 31, 2023

The Federal Housing Finance Agency
Office of Multifamily Analytics and Policy
400 7th Street, S.W.
Washington, D.C. 20219

re: Tenant Protections for Enterprise-Backed Multifamily Properties Request for Input

To Whom it May Concern in the Office of Multifamily Analytics and Policy:

Thank you for the opportunity to provide comments as the Federal Housing Finance Administration (FHFA) considers tenant protections for residents in enterprise-backed multifamily properties. National Housing & Rehabilitation Association (NH&RA) is a membership organization representing developers, owners and operators of affordable housing with a combined portfolio of well over a million units. Beyond developers, our members span the gamut of the housing finance ecosystem including Enterprise lenders, investors, syndicators, governmental entities, and related professionals.

The defining feature of America's affordable housing system is the ability to opt-in. This is borne out in many different contexts, most notably the federal Low Income Housing Tax Credit (LIHTC) program which offers tax credits to investors of housing that has long-term affordability restrictions. State and local governments also offer their own opt-in programs including state LIHTC programs and inclusionary zoning ordinances, in which developers are offered relaxed parking requirements or additional site density in exchange for designating units as affordable. FHFA's COVID-19 Multifamily Tenant Protections only applied to properties seeking forbearance and had express Congressional authorization to do so under the Coronavirus Economic Stabilization (CARES) Act. We highlight this feature because the proposals being considered by FHFA would breach the opt-in framework undergirding the country's affordable housing system by applying to all Enterprise-backed mortgages.

Congress established FHFA to oversee the safety and soundness of the Enterprises; yet the actions being considered will undermine the financial position and market competitiveness of the Enterprises. The risk that borrowers will seek financing elsewhere or decide not to invest in the multifamily market due to onerous and repetitive regulations would be gravely detrimental to FHFA's and the Enterprises' purpose and affordable housing goals. New federal requirements related to tenant protections for Enterprise-backed multifamily homes will decrease both private sector investment into, and development of, housing stock if there is a discernible impact on the return on investment and the long-term viability of a property.

In his new book, *Poverty, by America*, Matthew Demond argues that "poverty isn't simply the condition of not having enough money. It's the condition of not having enough choice and being taken advantage of because of that." NH&RA and our members are working to provide more choices for high-quality affordable housing to meet the dearth of supply, which Fannie Mae estimates as 4.4 million units in just



the top 75 metro areas.¹ The public mission of a federally supported secondary multifamily market should be squarely focused on the creation and sustainability of critical market liquidity. If mandated, the proposals suggested in the RFI will undermine that mission and result in increased rents, as housing providers will be forced to seek financing from more costly private sources. We caution FHFA against efforts that stray from this critical mission as an overreach into other housing policy areas could have adverse and unintended consequences.

Before, during, and after COVID-19 our members have worked diligently to avoid evictions. Evictions are a cumbersome and difficult process for all involved and are often the last resort of a housing provider. Many of our members work with residents to establish payment plans or allow them to pay rent based on when they receive their income, as opposed to the first of the month. Our members pay for third-party services that help residents build credit through on-time rental payment and pay for residents to have access to resident service providers who can help connect residents to benefits they are eligible for.

Nevertheless, evictions must remain as an important part of the housing finance system, enabling housing providers to meet their financial responsibilities to lenders by evicting non-paying residents as well as residents that threaten the wellbeing of other residents. We must ask *which* residents are protected when housing providers are unable to process evictions for criminal activity or application fraud, which denies housing assistance to a truly eligible prospective tenant.

States and localities have long addressed the issue of evictions, the further addition of a federal layer will only serve to exacerbate the complex nature of housing law and hinder the creation of additional affordable housing. It is imperative that FHFA and the Enterprises aid in the mitigation of the need for evictions and foster the generation of additional affordable housing for the nation's renters.

The cost of developing and operating affordable housing continues to rise with interest rate increases, inflation impacting everything from drywall to contractor salaries and employee healthcare, and exorbitant insurance renewals. The fundamental economics that make affordable housing possible are already in peril. We fear that the actions being considered in this RFI would further erode market stability and we urge the FHFA to remain focused increasing production and the safety and soundness of the Enterprises. Thank you for your time and consideration on this important issue.

Sincerely,

Kaitlyn Snyder
Managing Director

¹ Fannie Mae (2022). *The U.S. Housing Shortage from a Local Perspective*. Retrieved from: <https://www.fanniemae.com/media/45106/display>.